

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MITCHELL PRUST,
Plaintiff,

v.

APPLE INC.,
Defendant.

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CIVIL ACTION NO. 2:09-CV-92 (TJW)

ORDER

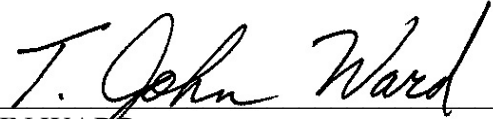
Before the court is Defendant Apple Inc.'s Motion to Transfer Venue to the Northern District of California Pursuant to 28 U.S.C. § 1404(a). [Dkt. No. 14] The court GRANTS Apple's Motion.

The Fifth and Federal Circuits have recently enunciated the standard to be used when deciding Motions to Transfer Venue. *See In re Volkswagen of America, Inc.*, 545 F.3d 304 (5th Cir. 2008) (en banc); *see In re TS Tech USA Corp.*, 551 F.3d 1315 (Fed. Cir. 2008) (applying the Fifth Circuit's *en banc Volkswagen* decision to rulings on transfer motions out of this circuit). Under this law, this case is appropriate for transfer. The plaintiff is in Minnesota, the defendant is in the Northern District of California, and the non-party witnesses are in Minnesota, California, Missouri, Illinois, New Mexico, Colorado, Montana, Georgia, and Florida. The plaintiff has failed to show greater convenience or a sufficient connection to this District that would warrant denying transfer.

Accordingly, Apple has met its burden of showing it is clearly more convenient for this

case to proceed in the Northern District of California. *See In re Volkswagen*, 545 F.3d 304 (5th Cir. 2008). The Motion, therefore, is GRANTED and this case is transferred to the Northern District of California.

SIGNED this 7th day of October, 2009.

A handwritten signature in black ink, reading "T. John Ward", is written over a horizontal line.

T. JOHN WARD

UNITED STATES DISTRICT JUDGE